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Attorneys for Plaintiff
DFINITY USA RESEARCH, LLC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DFINITY USA RESEARCH, LLC., a
limited liability company,

Plaintiff,

vs.

ERIC BRAVICK, an individual and DOES
1 - 100, inclusive,

Defendants.

Case No. 5:22-cv-03732-EJD

**DECLARATION OF CHRISTINA M.
WONG IN SUPPORT OF PLAINTIFF
DFINITY USA RESEARCH, LLC'S
ADMINISTRATIVE MOTION FOR
RELIEF TO FILE OPPOSITION TO
DEFENDANT'S MOTION TO DISMISS
AND OPPOSITION TO DEFENDANT'S
REQUEST FOR JUDICIAL NOTICE**

[L.R. 7-11]

Ctrm.: 4
Judge: The Hon. Edward J. Davlia

Removal of Action Filed: June 24, 2022
Santa Clara County Superior Court
Case No. 22CV398321

Complaint Filed: May 11, 2022

1 I, Christina M. Wong, hereby declare:

2 1. I am an attorney at law duly admitted to practice before the courts of the State of
3 California and the United States District Court, Northern District of California. I am an attorney
4 employed by Baker McKenzie and counsel of record for Plaintiff DFINITY USA Research, LLC
5 in the above captioned matter. I submit this declaration in connection with Plaintiff's
6 Administrative Motion for Leave to File Opposition to Defendant's Motion to Dismiss. I have
7 personal knowledge of the facts set forth herein and, if called as a witness, could competently testify
8 thereto.

9 2. On June 24, 2022, Mr. Bravick filed a notice of removal, removing Plaintiff's
10 complaint from the Superior Court of California for the County of Santa Clara to the U.S. District
11 Court for the Northern District of California. (Dkt. 1.) Upon removal, the case was assigned to
12 Magistrate Judge Nathanael M. Cousins. (Dkt. 3.)

13 3. On July 1, 2022, Mr. Bravick filed a motion to dismiss, making Plaintiff's
14 opposition due on July 15, 2022. (Dkt. 8.)

15 4. On July 5, 2022, before Plaintiff's opposition to Mr. Bravick's motion to dismiss
16 was filed, Mr. Bravick filed a declination to magistrate jurisdiction. (Dkt. 10.) The next day, on
17 July 6, 2022, the Court issued a Clerk's Notice of Impending Reassignment to a District Court
18 Judge. The notice indicated that "all hearing dates presently scheduled before the current
19 magistrate judge are vacated and should be re-noticed for hearing before the judge to whom this
20 case is reassigned." (Dkt. 11.) Pursuant to this notice, Baker's internal docketing department
21 removed the pending trial and hearing dates and the motion to dismiss briefing schedule from our
22 office calendar.

23 5. Approximately an hour later, my office received the Court's order reassigning the
24 case to the Honorable Edward J. Davila for all further proceedings. (Dkt. 12.) In the body of the
25 order, the Court stated that, while all trial and hearing dates had been vacated, any motion briefing
26 schedules would remain unchanged. By pure inadvertence, the calendaring and attorney teams
27 missed this instruction of the Court and, as a result, inadvertently but mistakenly failed to reinstate
28

1 the original briefing schedule deadlines relating to Mr. Bravick's motion to dismiss in our docketing
2 calendar.

3 6. On July 26, 2022, Mr. Bravick re-noticed his motion to dismiss for a hearing date
4 of January 26, 2023. (Dkt. 15.) Based on the mistaken but good faith belief that the briefing
5 schedule for the motion to dismiss was to be calculated based on the date of the re-notice, the Baker
6 team calculated Plaintiff's deadline to file an opposition to Mr. Bravick's motion to dismiss as
7 August 9, 2022.

8 7. On July 28, 2022, while preparing the opposition to Mr. Bravick's motion to dismiss
9 and reviewing the docket in this case, my team and I discovered for the very first time that the Court
10 had not vacated the motion briefing schedule when it had vacated the hearing and trial dates upon
11 reassignment. Prior to this discovery, we were not aware of our inadvertent error in calculating the
12 deadlines.

13 8. Upon learning of our error on July 28, 2022, I immediately contacted counsel for
14 Mr. Bravick, disclosed our inadvertent mistake, and requested a stipulation to extend Plaintiff's
15 deadline to file a response to August 4, 2022. In my email, I also offered to mutually extend the
16 briefing schedule to allow Mr. Bravick additional time to file his reply. A true and correct copy of
17 my July 28, 2022 email to Mr. Bravick's counsel is attached hereto as **Exhibit A**.

18 9. Mr. Bravick's counsel did not respond to my email request. Accordingly, and in an
19 effort to avoid any further delay, this motion followed.

20 10. If granted leave to file its opposition to Mr. Bravick's motion to dismiss and
21 opposition to Mr. Bravick's request for judicial notice, Plaintiff is prepared to file its brief on
22 August 3, 2022.

23 I declare under penalty of perjury under the laws of the United States that the foregoing
24 is true and correct.

25 Executed this 1st day of August 2022, in Millbrae, California.

26
27 /s/ Christina M. Wong
Christina M. Wong

EXHIBIT A

From: Wong, Christina
Sent: Thursday, July 28, 2022 5:40 PM
To: GRamsey@crowell.com; JSteinberg@crowell.com
Cc: Newman, Bradford
Subject: DFINITY USA Research LLC v. Bravick - Motion to Dismiss Briefing Schedule

Counsel,

I hope this email finds you well. As you know, our firm represents DFINITY USA Research in the pending litigation against Eric Bravick. Due to an inadvertent error in our docketing process after Mr. Bravick declined the assigned Magistrate and the case was reassigned to Judge Davila, DFINITY's deadline to respond to Mr. Bravick's motion to dismiss was mistakenly calendared as August 8, 2022. Today, we discovered this error, and that the opposition was due on July 15, 2022. Accordingly, we write to request a stipulation to extend DFINITY's deadline to file a response to Mr. Bravick's motion to dismiss to August 4, 2022. We would, of course, be willing to agree to extend the briefing schedule for Mr. Bravick's reply. Given the January 26, 2023 hearing date, we do not believe there will be any prejudice to the parties as a result of this stipulation.

Please kindly advise by 5:00 p.m. PST tomorrow if your client will agree to this modified briefing schedule and, if so, we will draft a stipulation to that effect for filing on Monday.

Kind regards,
Christina

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